INDEX

	Page
Interest of National Lawyers Guild as Amicus Curiae	1
Reasons for Granting The Writ of Certiorari	3
Conclusion	6

Table of Cases

Baldwin v. New York, 399 U.S. 66 (1970)	5
Bloom v. Illinois, 391 U.S. 194 (1968)	5
Groppi v. Leslie, 404 U.S. 496 (1972)	4
In re Dellinger, 461 F.2d 389 (7th Cir. 1972)	4
In re Little, 404 U.S. 553 (1972)	3
In re McConnell, 370 U.S. 230 (1962)	3
Johnson v. Mississippi, 403 U.S. 212 (1971)	4
Mayberry v. Pennsylvania, 400 U.S. 455 (1971)	4
Offutt v. United States, 348 U.S. 11 (1954)	4
United States v. Meyer, 462 F.2d 827 (D.C. Cir. 1972)	4
United States v. Meyer, 346 F.Supp. 973 (D.D.C. 1972)	4
United States v. Seale, 461 F.2d 345 (7th Cir. 1972)	5
Weiss v. Burr, ____F.2d ____, 13 Crim.L.Rep. 2284 (9th Cir., May 21, 1973)	5

In The

SUPREME COURT OF THE UNITED STATES

No. 73-473

DANIEL T. TAYLOR III,

Petitioner,

v.

JOHN P. HAYES, Judge,
Jefferson Circuit Court,

Respondent.

IEF OF NATIONAL LAWYERS GUILD AS AMICUS CURIAE
SUPPORT OF PETITION FOR WRIT OF CERTIORARI*

INTEREST OF NATIONAL LAWYERS GUILD

The National Lawyers Guild is an association
f lawyers, law students and legal workers dedicated to
orking for a society which more adequately meets the
eeds of the nation's people. The Guild seeks to place

* Letters from the respective parties consenting to the submission of this amicus have been filed with the Clerk of this Court.

the skills of its members in the service of those who are struggling against oppression, and to further the cause of civil rights and civil liberties. The Guild has often submitted amicus briefs in this Court and other courts throughout the United States where the circumstances or legal issues presented are of broad public importance.

We are particularly interested in this case, for the actions of the Kentucky courts constitute a serious assault on the constitutional and historical right, indeed duty, of an attorney to represent with vigor and skill a black client accused in a hostile southern community of the murder of two white policemen. Moreover, the outcome of this case holds significance for attorneys and defendants far beyond its immediate boundaries. The Guild believes that if the decision of the Court of Appeals of Kentucky is allowed to stand unreviewed by this Court, it will be a signal to those who undertake to represent persons held in disfavor that they in turn may not be provided with dispassionate and careful review of charges which may be lodged against them as a result of their efforts.

REASONS FOR GRANTING THE WRIT

The history of this case is reviewed in detail the main petition; that statement is adopted herein.

Unless reviewed by this Court, the decision below uld seriously erode both substantive limitations and ocedural safeguards which this Court has developed to otect vigorous advocates from the ire of an offended cal judiciary.

This Court has limited the criminal contempt pow- in cases of this nature to situations in which an ad- cate "creates an obstruction which blocks the trial udge in the performance of his judicial duty." In re cConnell, 370 U.S. 230, 236 (1962). See also, In re Little 04 U.S. 553 (1972). The court below failed to analyze hether the specific conduct of petitioner cited by respon- ent violated this standard. Instead it opined that peti- ioner engaged in "planned disruptive tactics" throughout he trial of his client generally and affirmed the judg- ent against and imprisonment of petitioner without con- ideration either of the circumstances of the trial or of he specific charges against him. It is significant that veral of the charges against petitioner appear similar

to those against other attorneys which were held legally insufficient by the United States Court of Appeals for the Seventh Circuit in In re Dellinger, 461 F.2d 389 (7th Cir. 1972). See also United States v. Meyer, 346 F.Supp. 973 (D.D.C. 1972).

Moreover, the Court did not consider in a meaningful way the significant procedural issues raised by the action of the respondent. The following questions were given either superficial treatment or no consideration at all:

a) whether the question of petitioner's alleged contempt should have been referred for adjudication to an impartial trial judge in accordance with this Court's decisions in Mayberry v. Pennsylvania, 400 U.S. 455 (1971), Johnson v. Mississippi, 403 U.S. 212 (197 and Offutt v. United States, 348 U.S. 11 (1954). See also United States v. Meyer, 462 F.2d 827 (D.C. Cir. 1972);

b) whether the petitioner should have been given the right to speak in his own defense, however briefly, in conformity with this Court's decision in Groppi v. Leslie, 404 U.S. 496 (1972). We note that the United States Court of Appeals for the Ninth Circuit has recently held that du process requires that an attorney accused of contempt duri

completed trial in which he was counsel be given the opportunity to explain his alleged conduct before he may be adjudged in contempt. See Weiss v. Burr, ___F.2d_____, 3 Cr.L.Rep. 2284 (9th Cir., May 21, 1973). The affirmance below appears to be squarely in conflict with the decision of the Ninth Circuit;

c) whether the constitutional right to trial by jury of serious charges of contempt, see Bloom v. Illinois, 391 U.S. 194 (1968) and Baldwin v. New York, 399 U.S. 66 (1970), can be defeated by the joint post-sentencing actions of the trial and appellate courts, the former "correcting" the judgment against petitioner so that no sentence on any one specification exceeded six months, the latter altering the sentences from consecutive to concurrent, contrary to established state law and practice. Compare United States v. Seale, 461 F.2d 345 (7th Cir. 1972).

By the very nature of his calling, the vigorous advocate for an unpopular client may be often placed in a position of conflict with judicial authority. Such clients are tried in highly emotional settings before judges conscious of their self-image due to media coverage. The potential for an allegation by an over-sensitive or personally involved judge runs high in such a situation.

Under these circumstances, when a trial judge does

take it upon himself to impose severe sentences on an attorney, the appellate courts must undertake a full and searching review to insure that a vigorous and independent bar, composed of attorneys willing to represent all segments of our society, will survive. It is precisely because the court below failed to engage in meaningful review, but instead apparently rubber-stamped the conduct of the trial judge toward an attorney he could not personally tolerate, that this case must be reviewed now. This Court must make clear that thorough and impartial review is required in cases of this nature and that vigorous advocacy in difficult trial situations will be protected.

CONCLUSION

For the reasons set forth herein, the writ of certiorari should be granted to review the judgment and opinion of the Court of Appeals of Kentucky.

Respectfully submitted,

James Larson

James Larson, President
Arthur Kinoy, Vice-President
National Lawyers Guild
23 Cornelia Street
New York, New York 10014

Of Counsel:

Lewis M. Steel

Dated: New York, New York
October 12, 1973

CERTIFICATE OF SERVICE

This is to certify that three (3) copies of the aforegoing Brief of the National Lawyers Guild as Amicus Curiae have been served by airmail, postage prepaid, upon the following:

Robert A. Sedler
University of Kentucky College of Law
Lexington, Kentucky 40506

Henry A. Triplett
231 South Fifth Street
Third Floor
Louisville, Kentucky 40202

James Reif